

EXHIBIT B

QUARLES v. USA

JOHN BERTON FISHER

May 10, 2005

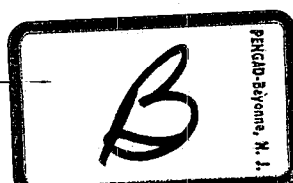
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1 IN THE UNITED STATES DISTRICT COURT FOR THE	1 CONTENTS
2 NORTHERN DISTRICT OF OKLAHOMA	2 Direct Examination by Mr. Ricketts..... 4
3 DON QUARLES, an Individual)	3 Direct Examination by Mr. Landreth..... 102
4 on behalf of himself and all others)	4 Direct Examination by Mr. Tucker..... 177
5 similarly situated,)	5
6 Plaintiffs,)	6 EXHIBITS
7 vs.) No. 00-CV-913-EA(J)	7 Defendants' Exhibits 19 through 29 were
8 UNITED STATES OF AMERICA, ex rel.)	8 marked for identification. (See "exhibit" in word
9 BUREAU OF INDIAN AFFAIRS,)	9 index.)
10 UNITED STATES OF AMERICA, ex rel.)	10
11 ENVIRONMENTAL PROTECTION)	11 STIPULATIONS
12 AGENCY: TEXACO INC.: GETTY OIL)	12 It is stipulated that the deposition of
13 CO.: PHILLIPS PETROLEUM)	13 JOHN BERTON FISHER, may be taken pursuant to
14 COMPANY: SUN OIL CO.: LITTLE)	14 agreement on May 10, 2005, before Jody Graham,
15 RIVER ENERGY CO.: YARHOLA)	15 CSR, RPR, RMR, CRR.
16 PRODUCTION CO.: SPSS OIL)	16 It is stipulated that all objections to
17 COMPANY, INC.: CHAMBERS &)	17 questions, except as to the form of the question,
18 HENDRIX OIL & GAS, INC.: and JOHN)	18 may be made at the time of the trial when said
19 DOES 1-1000,)	19 deposition is offered into evidence.
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25	25

Page 2	Page 4
1	1 JOHN BERTON FISHER,
2	2 being first duly sworn, was examined and testified
3	3 as follows, to wit:
4	4 DIRECT EXAMINATION
5	5 BY MR. RICKETTS:
6	6 Q Could you tell us your name, please, sir.
7	7 A John Berton Fisher.
8	8 Q What is your preference, Dr. Fisher or
9	9 something else? Dr. Fisher work?
10	10 A That works fine.
11	11 Q All right. And your age?
12	12 A Pardon?
13	13 Q Your age?
14	14 A Fifty-three.
15	15 Q What's your residence address?
16	16 A 5205 South Joplin Avenue, Tulsa,
17	17 Oklahoma, 74135.
18	18 Q Okay. Dr. Fisher, you understand that
19	19 you are under oath not only to tell the truth, but
20	20 the whole truth. You understand that from your
21	21 depositions and this oath that's been
22	22 administered; correct?
23	23 A Yes.
24	24 Q Okay. During the course of the
25	25 deposition it's important for you to allow me to

1 (Pages 1 to 4)



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<p style="text-align: right;">Page 81</p> <p>1 MR. WRIGHT: Underlying Glenpool. 2 MR. RICKETTS: The Glenpool field. 3 MR. WRIGHT: I'm going to object as to 4 foundation. 5 Q (BY MR. RICKETTS) Let me just start 6 over again. Is there groundwater underlying the 7 Glenpool field? 8 A Yes. 9 Q It is not a recognized bedrock aquifer; 10 correct? 11 A Correct. 12 Q The Ada-Vamoosa aquifer in Osage County 13 and other counties is a recognized bedrock 14 aquifer. 15 A The Ada-Vamoosa aquifer in Osage County 16 is a recognized bedrock aquifer. 17 Q And then you have described for us with 18 respect to the distribution of the sands what you 19 believe to be the difference between the Glenpool 20 and the Vamoosa-Ada aquifer in Osage County; is 21 that correct? 22 A I believe that would be the primary 23 difference, yes. 24 Q Okay. Would you — if you could fish out 25 or find Exhibit 23A which is this —</p>	<p style="text-align: right;">Page 83</p> <p>1 23A does or can? 2 Q Does contribute to the contamination of 3 Ada — of the Ada-Vamoosa aquifer. 4 MR. WRIGHT: I'm going to object to 5 form. 6 THE WITNESS: There may be transport 7 pathways whereby it could. 8 Q (BY MR. RICKETTS) How would you go 9 about, if you can, determining whether or not it 10 actually does contribute to the contamination of 11 the Ada-Vamoosa aquifer? 12 A I would attempt — I mean, you're calling 13 for me to discuss how about I would prove it. 14 Q How would you confirm whether or not it 15 did or would — whether or not it has contributed 16 to the contamination, if any, that exists in the 17 Ada-Vamoosa aquifer. 18 MR. WRIGHT: Object to the form. 19 THE WITNESS: I would have to 20 determine the possible pathway or pathways 21 whereby it could; and then determine if I could, in 22 fact, separately trace contamination due to it into 23 that pathway. 24 Q (BY MR. RICKETTS) And what steps 25 would you take to do that, to make that</p>
<p style="text-align: right;">Page 82</p> <p>1 MR. WRIGHT: That was his, I think. 2 MR. RICKETTS: Well, we had more than 3 one. 4 MR. WRIGHT: Did it go back in the 5 envelope? 6 MR. RICKETTS: I hate to unwrap that 7 whole — 8 MR. WRIGHT: I don't think we kept it. 9 MR. RICKETTS: The court reporter did. 10 Q (BY MR. RICKETTS) Dr. Fisher, let me 11 ask you in connection with Exhibit 23A, can you 12 locate oil field that's number 835. And let me 13 help you. It's in this — close to Kay County over 14 here. 15 A Yes. 16 Q Do you see 835? Is it your opinion that 17 oil field 835 contributes to pollution in the 18 Ada-Vamoosa aquifer? 19 MR. WRIGHT: Object to the form. 20 MR. TUCKER: Which number are you 21 looking at? 22 MR. RICKETTS: Exhibit Numbers 23A. 23 Q (BY MR. RICKETTS) The oil field is 835. 24 A And you're asking me is it my opinion 25 whether or not field 835 as indicated on Exhibit</p>	<p style="text-align: right;">Page 84</p> <p>1 confirmation? 2 A I would have to look at surface pathways 3 and subsurface pathways whereby it could reach 4 the Ada-Vamoosa. 5 Q And have you done that in this case? 6 A No. 7 Q Have you done that in connection with 8 any of the oil fields in Osage County? 9 A Okay. Are you saying have I specifically 10 conducted sampling? 11 Q Or determination of pathways that you 12 described that you would do or could do. 13 A I've not personally made any direct 14 investigation. I have relied upon reports issued 15 by the United States Geological Survey and others 16 that indicate an association between oil field 17 contaminants and contaminants in the subsurface, 18 in surface waters and in soils. 19 Q Okay. On page 10 of your original report 20 which is Exhibit 19, you make the statement — 21 it's third paragraph from the bottom. "Defendant 22 Texaco drilled, completed and/or operated at least 23 437 wells in Osage County during the period 1986 24 through 2003." Is that your statement? 25 A No. My statement is that, "Defendant</p>

21 (Pages 81 to 84)



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<p style="text-align: right;">Page 173</p> <p>1 environmental and administrative issues. 2 Deficient surface casing, cementing complaints are 3 extremely rare." 4 Q And now would you read bullet number 4 5 for me, please. 6 A "Most pollution related complaints are 7 due to discharges, leaks and spills and serious 8 issues" -- well, rare. I think I would say sic 9 instead of I.E. -- "that is released to surface or 10 groundwater." 11 And that's, again, within the context of 12 this data which is from 1993 to 1999 and for 13 Division 1. Does not consider in any detail data 14 from Osage County. 15 Q Dr. Fisher, would you agree with me that 16 production issues as you've phrased them in this 17 document are dominated by trash and debris? 18 A As I state on the final page under 19 "Conclusions," from reviewing this data which has 20 the temporal and spatial constraints previously 21 described, that's correct. 22 Q And on the first bullet of the last page of 23 this presentation it states that improper signs are 24 an issue. Do you consider improper signage to be 25 a pollution event?</p>	<p style="text-align: right;">Page 175</p> <p>1 Q Okay. Do you have plans to take any 2 samples of soil or water in Osage County 3 associated with this matter? 4 MR. WRIGHT: Object as to form. 5 THE WITNESS: I may collect such 6 samples. 7 Q (BY MR. LANDRETH) Do you currently 8 have an agreement with the Drummond Law Firm 9 to conduct any additional sampling in Osage 10 County? 11 A I have an ongoing engagement with the 12 Drummond Law Firm. 13 Q Okay. Have they directed you to do any 14 additional sampling in Osage County? 15 A Not as of this time. 16 Q Okay. Let's move on to page 10 of 17 Exhibit 1. Excuse me. You're right, Will. Let's 18 move on to page 10 of Exhibit 19, your expert 19 report. 20 And isn't it true that the first five 21 paragraphs of page 10 reflect statements regarding 22 your direct evidence of produced water releases, 23 trash and debris, release of oil field wastes, 24 inadequate secondary containment and similar 25 E&P -- exploration and production issues on the</p>
<p style="text-align: right;">Page 174</p> <p>1 A No. It is, however, an event that 2 prevents you from identifying who the polluter 3 might be. 4 MR. LANDRETH: Let's go off the record. 5 (A recess was taken from 4:18 to 4:21 6 PM.) 7 Q (BY MR. LANDRETH) Dr. Fisher, would 8 you, please, read on the basis for your opinion, 9 page 9 as part of your expert report, would you 10 read the last paragraph of page 9 into the record 11 for me, please. 12 A "Direct evidence of hydrocarbon released 13 from petroleum exploration and production 14 activities is present on property in Osage County, 15 Oklahoma, owned by Quarles." 16 Q Okay. On what evidence are you basing 17 this statement? 18 A Direct observation of the presence of 19 hydrocarbons in surface soils. 20 Q Okay. And I believe it was your earlier 21 testimony that, if you would confirm with me, you 22 did not take any soil samples. 23 A No. 24 Q And you did not take any water samples. 25 A No.</p>	<p style="text-align: right;">Page 176</p> <p>1 Quarles property? 2 A Yes. 3 Q Would it be your testimony that Phillips 4 Petroleum Company has any responsibility for any 5 of these alleged conditions? 6 MR. WRIGHT: Object as to form. 7 THE WITNESS: In terms of current 8 observable releases in one -- which one can 9 observe oil leaving active wellheads, look at or see 10 evidence of historic asphaltic cemented soils or 11 see the evidence of salt contaminated soils 12 through visual observation and taste, we have -- 13 we're not able to find surface evidence of the 14 historic Phillips well on Quarles property. So we 15 have no direct evidence from the basis -- from my 16 investigation to this point of any surface releases 17 by Phillips Petroleum. 18 Q (BY MR. LANDRETH) For the surface 19 releases and related issues that you identify in 20 the first five paragraphs of page 10, are those 21 associated with current operators? 22 A Current operators would have -- or 23 certainly the operators operating the wells today 24 that would be responsible for releases that are 25 taking place from their facilities today.</p>

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